

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF  
THE TTAB

Hearing:  
July 15, 2004

Mailed:  
Sept. 23, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Lufthansa Technik AG

Serial No. 75824687

David Toren and Shifra N. Malina of Sidley Austin Brown & Wood LLP for Lufthansa Technik AG.

Brian J. Pino, Trademark Examining Attorney, Law Office 114  
(Margaret Le, Managing Attorney).

Before Seeherman, Chapman and Bucher, Administrative  
Trademark Judges.

Opinion by Seeherman, Administrative Trademark Judge:

Lufthansa Technik AG has appealed from the final  
refusal of the Trademark Examining Attorney to register TIS  
as a mark for the following services:

organizational consultation in the  
nature of business management  
consultation for others in the field of  
aviation, including advice on the  
purchase and sale of aircraft;  
providing trade information for others,  
namely, through the compilation and

supply of information via a web site on the Internet on technical innovations relating to aircraft or parts thereof (Class 35);

aircraft repair and maintenance for others, namely, performed by aircraft engineers, flight engineers, fight mechanics and interior designers; repair and maintenance, for third parties, of aircraft power plants, aircraft engines, aircraft electronic and optical equipment and aircraft motor drive mechanisms (Class 37);

initial and ongoing training of flight and ground personnel employed by third parties in the use of equipment on aircraft and equipment for aircraft ground handlers and equipment for aircraft towing and handling (Class 41); and

interior engineering design for aircraft for others; inspection of aircraft and parts thereof for others; technical consultation and research for others in the field of aviation, including advice on the purchase and sale of aircraft; product development for others, namely, production and development of electronic data processing inspection and overhaul programs for aircraft and parts thereof; engineering services for others, namely, services of an aircraft engineer, flight engineer, flight mechanic, interior designer, electronic data processing engineer, and computer scientist (Class 42).<sup>1</sup>

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<sup>1</sup> Application Serial No. 75824687, filed October 18, 1999, claiming a right of priority under Section 44(d) of the Trademark Act, based on a German application filed on May 28, 1999, which application issued as German Registration No. 39930718 on August 9, 1999.

Registration has been refused pursuant to Section 2(e)(1), 15 U.S.C. 1052(e)(1), on the ground that applicant's mark is merely descriptive of its identified services.

Applicant and the Examining Attorney filed briefs, and both appeared at an oral hearing before the Board.

This application has had a rather extended examination. Although the Office has maintained the refusal of registration on the ground of mere descriptiveness throughout, the reasons for finding that the mark is merely descriptive have varied. In the first Office action, the Examining Attorney (who considered the registrability of the mark only with respect to the Class 35 services, pending applicant's submitting the required application filing fee for the additional classes for which registration was sought), determined that the mark was merely descriptive because TIS "tells prospective purchasers that the goods or services offer technical information." Attached to that Office action were excerpts of articles taken from the NEXIS database which made reference to AIAA's "Technical Information Service (TIS)." "AIAA Bulletin" section of "Aerospace America," June 1992. Another excerpt used TIS in reference to "Technical Information System," e.g., "Rice singled out Pratt's

'Management/Technical Information System (M/TIS)' as having 'provided significant confidence that the IMP/IMS automated tools can be used...' "Aerospace Daily," August 8, 1991.

In the final Office action, the Examining Attorney (to whom the application had been reassigned), held that the mark is merely descriptive because TIS, "a commonly used acronym for 'TECHNICAL INFORMATION SERVICES' or 'TECHNICAL INFORMATION SHEET,' merely refers to applicant's services in providing technical information, or TIS. With this Office action, the Examining Attorney made of record an excerpt from "Acronym Finder" which listed, for the acronym TIS, "Technical Information Services" and "Technical Information Sheet." (It should be noted that several other definitions were listed for this acronym, including "Target Image Simulator," "Target Information System," "Technical Interface Specification," "Test Item Simulator" and "Test Information Sheet.") The Examining Attorney also submitted excerpts from the NEXIS database which included the following references:

...said James Guidi, business manager for  
Technicke a Informacni Sluzby, or  
Technical and Informational Service  
(TIS)....  
"Mac WEEK," January 8, 1991; and

Users can access the system, renamed  
the Technical Information Services  
(TIS) system, via the Internet. On

TIS, which runs on Digital Equipment Corp. ..., users can find the latest reports on topics such as occupational safety and health standards or chemical health hazards.

"Government Computer News," October 3, 1994

The Examining Attorney also submitted materials taken from various websites which use "Technical Information Services" as a heading or topic. The term TIS appears in these excerpts in parentheses next to the words, e.g.:

In keeping with the Congressional mandate that the National Highway Traffic Safety Administration provide public access to government information, the NHTSA Technical Reference Division (TRD) was established as the reference facility for the Administration's public records. The name of this Office was later changed to Technical Information Services (TIS) which better describes the information collection and the mission of NHTSA.  
[www.nhtsa.dot.gov](http://www.nhtsa.dot.gov);

The Technical Information Services (TIS) Department is part of the Research Division of the Stanford Linear Accelerator Center (SLAC). TIS's mission is to support SLAC's research, education, and communication efforts and to provide rapid, accurate, and user-friendly access to particle physics information  
[www.slac.stanford.edu](http://www.slac.stanford.edu); and

The Technical Information Service (TIS) at the Purdue University Libraries is a fee-based information service.  
[www.ecn.purdue.edu](http://www.ecn.purdue.edu).

After applicant filed a request for reconsideration, the application was assigned to the original Examining Attorney, who took the position, in a non-final Office action dated August 23, 2002, that the mark is merely descriptive because it "tells prospective purchasers that the goods and/or [sic] services supply time in service information or are related to time in service maintenance." In support of his position, the Examining Attorney submitted excerpts of articles taken from the NEXIS database, as well as material from the Internet.<sup>2</sup> These include the following:

That action also required, within 10 hours time-in-service (TIS) or within three days after the effective date of that emergency AD,...  
"The Weekly of Business Aviation,"  
June 24, 2002;

AD requires removing each existing tail rotor counterweight bellcrank (bellcrank) retention nut (retention nut), replacing each retention nut with a zero hours time-in-service (TIS) retention nut; and follow-up inspection of installed retention nuts.  
"Helicopter News," July 26, 2001;

The clutch manufacturer used the airframe load spectrum to establish the new life limit of 3,600 hours time-in-service (TIS).  
"Air Safety Week," December 8, 1997;

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<sup>2</sup> The material submitted by the Examining Attorney includes a search summary retrieved by the Google search engine. Because the excerpts shown in this summary are so brief and are also truncated, they have minimal probative value.

This proposed revision would increase the time-in-service (TIS) intervals between required visual and ultrasonic inspections.

"Commuter-Regional Airline News,"  
September 4, 2000;

96-21-04 The New Piper Aircraft,  
Inc.:

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Compliance: Required within 25 hours time-in-service (TIS) after September 2, 1986 (the effective date of AD 86-17-07) or within 10 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished.

[www.ecn.purdue.edu](http://www.ecn.purdue.edu);

Tarver Propeller, LLC  
Service Bulletin No. 2000-001  
Propeller Blade Inspection

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Within the next 100 hours Time In Service (TIS) or at the next aircraft annual...

[http://216.239.37.100/searchhhhh?q=cache:9kmqV6rPF2MC.www.shortwing.org](http://216.239.37.100/searchhhhh?q=cache:9kmqV6rPF2MC.www.shortwing.org;);  
and

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD or at the next door handle removal after the effective date of this AD, whichever occurs first, unless already accomplished.

[www.tc.gc.ca/aviation/ad/adfiles/US97-14-15.HTM](http://www.tc.gc.ca/aviation/ad/adfiles/US97-14-15.HTM).

Ultimately, another final Office action issued on April 15, 2003, which clarified which requirements or refusals were outstanding, and which had been satisfied or withdrawn. The Examining Attorney stated that the only

refusal of registration was pursuant to Section 2(e)(1), on the basis that applicant's mark is merely descriptive of its services because TIS "immediately tells customers that the applicant provides time in service services or services about time in service maintenance." With this action, the Examining Attorney made of record a list of acronyms from an unidentified source which included, among other meanings for TIS, "Time in Service." There was also a search summary from the Google search engine but, as with the previous such submission, the excerpts are too brief and truncated for us to find it of much evidentiary value. We do note that in all of the excerpts the term "Time In Service," whether shown in initial capital letters or in lower case and hyphenated, is followed by "TIS" in parentheses.

A mark is merely descriptive, and therefore prohibited from registration by Section 2(e)(1) of the Trademark Act, if it immediately conveys knowledge of the ingredients, qualities, or characteristics of the goods or services with which it is used or is intended to be used. On the other hand, a mark is suggestive, rather than descriptive, if imagination, thought, or perception is required to reach a conclusion about the nature of the goods or services. See *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir.



1987). It has been recognized that there is but a thin line of distinction between a suggestive and a merely descriptive term, and it is often difficult to determine when a term moves from the realm of suggestiveness into the sphere of impermissible descriptiveness. In re Recovery, Inc., 196 USPQ 830 (TTAB 1977).

The Examining Attorney's position, as articulated in his brief, is that TIS is a well-known aviation acronym for "time in service"; and that applicant's services are all involved with the aviation field, and some are specifically for aviation maintenance or could involve aviation maintenance services or maintenance related issues.

First, it is not entirely clear that TIS, per se, would be recognized as the equivalent of the phrase "time in service." The only dictionary evidence that TIS is an acronym for "time in service" comes from what appears to be an Internet source, but which is neither identified by a web address or by any indicia as to its name. On the other hand, applicant has submitted pages from numerous acronym dictionaries which do not list TIS, or do not list the term as having the meaning of "time in service." Applicant also stated, in response to the Examining Attorney's inquiry as to whether its mark TIS has any significance, that "TIS is an acronym coined by the applicant for the term Total

Information Support," and that neither TIS nor TOTAL INFORMATION SUPPORT have any known meaning in the trade or as applied to the services aside from trademark significance. Response dated June 27, 2001.

Further, although many of the Internet and NEXIS submissions attached to the Office action of August 23, 2002, use "TIS," the term, as noted above, is always placed, at least once in each article, in parentheses immediately next to the words "time in service." As a result, it is certainly possible that the writer is using TIS as an abbreviation for "time in service" simply to avoid having to write out the entire phrase each time. Such usage would be analogous to our referring to applicant in this opinion as "Lufthansa Technik AG (LT)" and thereafter using the abbreviation LT when reference was made to applicant.

"[A]s a general rule, initials cannot be considered descriptive unless they have become so generally understood as representing descriptive words as to be accepted as substantially synonymous therewith." *Modern Optics, Incorporated v. The Univis Lens Company*, 234 F.2d 504, 110 USPQ 293, 295 (CCPA 1956). The Office has not shown that this is the case with TIS.

Moreover, even if we accept that TIS would be perceived as the equivalent of "time in service," we are not persuaded that "time in service" is a merely descriptive term for applicant's services. In this connection, we note that, because applicant's application is in four classes, the Office must show that TIS is merely descriptive of the services in each class. The Examining Attorney contends both that TIS is a descriptive term in the aviation field and that TIS has a descriptive meaning in relation to aviation maintenance. With respect to the first point, the mere fact that "time in service" is a term that has something to do with aviation, even if it is commonly used in the aviation field, does not mean that it immediately conveys information about the various services identified in applicant's application. In this respect, the term seems to be analogous to PURITY for water filtering units, water filter cartridges, and water softening units. See *In re Universal Water Systems, Inc.*, 209 USPQ 165 (TTAB 1980). Although there is obviously some connection between PURITY and water filtering equipment, a multi-stage reasoning process must be used to make that connection.

The second point made by the Examining Attorney is that TIS or time in service is merely descriptive of

maintenance services or services related to aviation maintenance. It is difficult to see how some of applicant's services are related to aviation maintenance, much less how TIS or "time in service" immediately conveys information about such services. The Examining Attorney has not provided any specific explanations, but has only said that the services can involve airline maintenance. In our view, a multi-stage reasoning process would be required to go from, for example, "advice on the purchase of aircraft" in Class 35 to the thought that such advice might include checking the time in service of parts on the aircraft to understanding that TIS has some connection to the purchasing decision. Even for the actual aircraft and maintenance services which are identified in Class 37, there is no evidence that maintenance services are referred to as TIS services, or TIS maintenance. Rather, these terms appear to be used to refer to the equipment itself, and how long it has been operating. Thus, TIS simply does not immediately convey information about the maintenance services. A multi-stage process is still required to understand the connection between TIS/time in service and these services, and therefore the mark is only suggestive.

On the record before us, the Office has not met its burden of showing that applicant's mark is merely

descriptive of its identified services. Accordingly, we follow the well-established principle that, where there is doubt as to whether a term is merely descriptive or suggestive, such doubt must be resolved in applicant's favor, and the mark published for opposition. See *In re The Gracious Lady Service, Inc.*, 175 USPQ 380 (TTAB 1972). On a different record, such as might be adduced in an opposition proceeding, we might well reach a different conclusion.

Decision: The refusal of registration is reversed as to each class.